

WWR #05357579

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

XIAMEN EASEPAL ENTERPRISES
LIMITED,

Plaintiff,

VS..

ELEGANT USA, L.L.C.,

Defendant.

CASE NO. 2:06-cv-03500-HAA-MF

JUDGE HAROLD A. ACKERMAN
MAGISTRATE JUDGE MARK FALK

PLAINTIFF'S REPLY TO
DEFENDANT'S COUNTERCLAIM

Plaintiff Xiamen Easepal Enterprises Limited (hereinafter "Plaintiff"), hereby replies to the Counterclaim of Defendant Elegant USA, LLC (hereinafter "Defendant") as follows

Plaintiff reincorporates its First Amended Complaint as if fully rewritten herein, for the purposes of setting forth both the facts of the within matter, and for its Reply to Defendant's Counterclaim.

Plaintiff denies each and every allegation of Defendant's Counterclaim, which are inconsistent with its First Amended Complaint previously filed herein.

Plaintiff denies each and every allegation of Defendant's Counterclaim, which are not specifically admitted herein to be true.

1. Plaintiff admits the allegations contained in Paragraph One of Defendant's Counterclaim.

2. Plaintiff admits the allegations contained in Paragraph Two of Defendant's Counterclaim.

3. Plaintiff denies the allegations contained in Paragraph Three of Defendant's Counterclaim.

4. Plaintiff denies the allegations contained in Paragraph Four of Defendant's Counterclaim.

5. Plaintiff denies the allegations contained in Paragraph Five of Defendant's Counterclaim.

6. Plaintiff denies the allegations contained in Paragraph Six of Defendant's Counterclaim for want of knowledge.

7. Plaintiff denies the allegations contained in Paragraph Seven of Defendant's Counterclaim for want of knowledge.

8. Plaintiff denies the allegations contained in Paragraph Eight of Defendant's Counterclaim.

9. Plaintiff denies the allegations contained in Paragraph Nine of Defendant's Counterclaim.

10. Plaintiff denies the allegations contained in Paragraph Ten of Defendant's Counterclaim.

11. Plaintiff denies the allegations contained in Paragraph Eleven of Defendant's Counterclaim.

12. Plaintiff denies the allegations contained in Paragraph Twelve of Defendant's Counterclaim for want of knowledge.

13. Plaintiff denies the allegations contained in Paragraph Thirteen of Defendant's Counterclaim for want of knowledge.

14. Plaintiff denies the allegations contained in Paragraph Fourteen of Defendant's Counterclaim.

15. Plaintiff denies the allegations contained in Paragraph Fifteen of Defendant's Counterclaim.

16. Plaintiff denies the allegations contained in Paragraph Sixteen of Defendant's Counterclaim.

FIRST AFFIRMATIVE DEFENSE

17. Defendant's Counterclaim fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

18. Defendants' damages, if any, were the result of the action(s) of parties other than Plaintiff.

THIRD AFFIRMATIVE DEFENSE

19. Plaintiff affirmatively denies the injuries and damages alleged in Defendant's Counterclaim.

FOURTH AFFIRMATIVE DEFENSE

20. Defendant's Counterclaim is barred by estoppel, waiver, and/or laches.

FIFTH AFFIRMATIVE DEFENSE

21. Defendant has expressly waived the rights to any relief pled in their Counterclaim.

SIXTH AFFIRMATIVE DEFENSE

22. The obligations sought to be enforced by Defendant's Counterclaim, if any such obligations exist, have been extinguished or have been satisfied.

SEVENTH AFFIRMATIVE DEFENSE

23. Defendant's Counterclaim is, or may be, barred by the doctrine of ratification, novation or acquiescence.

EIGHTH AFFIRMATIVE DEFENSE

24. Defendant's Counterclaim is, or may be, barred by the doctrine of unjust enrichment.

NINTH AFFIRMATIVE DEFENSE

25. Defendant's Counterclaim is, or may be, barred by reason of unclean hands.

TENTH AFFIRMATIVE DEFENSE

26. Defendant has failed or may have failed to join necessary or indispensable parties required for a just adjudication of its Counterclaim.

ELEVENTH AFFIRMATIVE DEFENSE

27. Plaintiff's damages far exceed Defendant's damages, if any.

TWELFTH AFFIRMATIVE DEFENSE

28. Defendant has failed to mitigate any damages alleged in their Counterclaim

THIRTEENTH AFFIRMATIVE DEFENSE

29. Defendant's Counterclaim is barred by Defendants' own negligence.

FOURTEENTH AFFIRMATIVE DEFENSE

30. Plaintiff reserves the right to assert additional defenses or claims as discovery proceeds in this action.

WHEREFORE, Plaintiff Xiamen Easepal Enterprises Limited prays for judgment in its favor on its First Amended Complaint and Defendant's Counterclaim. Plaintiff further prays that Defendant's Counterclaim be dismissed with prejudice, that it be awarded its attorney fees and

expenses incurred in this case, and that it be awarded all other equitable relief the Court may deem appropriate.

WELTMAN, WEINBERG & REIS CO., L.P.A.

/s/ V. Kelly Mulholland
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